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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,674	03/05/2002	Douglas N. Knisely	Knisely 10-4-3-1	3383

48116 7590 11/03/2006

FAY SHARPE/LUCENT
1100 SUPERIOR AVE
SEVENTH FLOOR
CLEVELAND, OH 44114

EXAMINER

PHUNKULH, BOB A

ART UNIT PAPER NUMBER

2616

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/091,674	Applicant(s) KNISELY ET AL.	
	Examiner Bob A. Phunkulh	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 9, 11-15, 17 and 19 is/are rejected.
- 7) ☒ Claim(s) 6, 8, 10, 16, 18 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is in response to applicant's 08/30/2006 amendment(s)/response(s) in the application of **KNISELY et al.** for "**METHOD FOR CELL SWITCHING IN WIRELESS COMMUNICATION SYSTEMS**" filed 03/05/2002. The amendment/response to the claims have been entered. No claims have been canceled. No claims have been added. Claims 1-20 are now pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7, 9, 11-15, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Gilhousen et al.* (US 6,157,668), herein after *Gilhousen*.

Regarding claims 1, 9, 11, 19, *Gilhousen* discloses the following: when communications are initially established, a mobile unit communicates through a first base station and the Active Set contains only the first base station. The mobile unit monitors the pilot signal strength of the base stations of the Active Set, the Candidate Set, and the Neighbor Set. When a pilot signal of a base station in the Neighbor Set exceeds a predetermined threshold level, the base station is added to the Candidate Set and removed from the Neighbor Set at the mobile unit. The mobile unit communicates a message to the first base station identifying the new base station. A

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system controller decides whether to establish communication between the new base station and the mobile unit. Should the system controller decide to do so, the system controller sends a message to the new base station with identifying information about the mobile unit and a command to establish communications therewith. A message is also transmitted to the mobile unit through the first base station. The message identifies a new Active Set that includes the first and the new base stations (see col. 2 lines 6-28).

Gilhousen fails to explicitly disclose the message includes channel measurement.

However, it would have been obvious to one having ordinary skill in the art at the time of invention was made to include the true measurement made by the mobile station to the serving base station in order to provide the system controller with better information and judgment when deciding whether to switch the communication to the identified new base station.

Regarding claims 2 and 12, *Gilhousen* the information is received over a reverse link signaling channel of a cell in which the system equipment is located (the mobile station transmitting the message to the serving base station over reverse link, see col. 2 lines 6-28).

Regarding claims 3 and 13, *Gilhousen* discloses confirming that the received information is coded information; and transmitting, upon confirmation of the coded information, an acknowledgement signal to the mobile when the system equipment is

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currently serving the mobile, or when the system equipment is a target system equipment, serving the mobile in accordance with a protocol being followed by the communication system thus allowing the mobile, the serving system equipment and the target system equipment to complete the cell switching (A message is also transmitted to the mobile unit through the first base station. The message identifies a new Active Set that includes the first and the new base stations (see col. 2 lines 6-28).

Regarding claims 4 and 14, *Gilhousen* discloses the coded information is a signal to which a spreading code is applied which signal contains formatted information having channel measurement adjustment information for the serving system equipment where either the spreading code or at least a portion of the formatted information identifies the particular target system equipment (well known in the art that CDMA system utilized the spreading codes to differentiate the users, see col. 1 lines 19-45) .

Regarding claims 5 and 15, *Gilhousen* discloses the spreading code is a null code (PN code is also known as Null code, see col. 1 lines 35-45).

Regarding claims 7 and 17, *Gilhousen* discloses the spreading code is a cover code (PN code is also known as Null code, see col. 1 lines 35-45).

Allowable Subject Matter

Claims 6, 8, 10, 16, 18, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 8/30/2006 have been fully considered but they are not persuasive.

In response the applicant's argument in page 3, *Gilhousen* discloses when a pilot signal of a base station in the Neighbor Set exceeds a predetermined threshold level, the base station is added to the Candidate Set and removed from the Neighbor Set at the mobile unit. The mobile unit communicates a message to the first base station identifying the new base station (see col. 2 lines 6-28).

In col. 7 lines 13-37, the communication system is CDMA system –thus the communication between the base station and the mobile station used assigned code word i.e. Walsh code when communicating. In col. 1 line 63 to col. 5, *Gilhousen* discloses mobile unit assisted soft handoff operates based on the pilot signal strength of several sets of base stations as measured by the mobile unit.

Therefore, *Gilhousen* discloses the claimed subject matter “received information is coded information indicating a mobile's intent to switch from a serving system equipment to a particular target system equipment identified by the coded information.”

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any response to this action should be mailed to:

The following address mail to be delivered by the United States Postal Service (USPS) only:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

The following address mail to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, Hand Delivery, etc.) as follow:

U.S. Patent and Trademark Office

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220 20th Street South
Customer Window, Mail Stop _____
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bob A. Phunkulh** whose telephone number is **(571) 272-3083**. The examiner can normally be reached on Monday-Tuesday from 8:00 A.M. to 5:00 P.M. (first week of the bi-week) and Monday-Friday (for second week of the bi-week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor **Wellington Chin**, can be reach on **(571) 272-3134**. The fax phone number for this group is **(571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bob A. Phunkulh
Primary Examiner
TC 2600
Technology Division 2616
November 01, 2006

BOB PHUNKULH
PRIMARY EXAMINER